

LEASE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2005, between the **COUNTY OF FAUQUIER**, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as Lessor, and the **FAUQUIER HOUSING CORPORATION**, a Virginia Corporation existing under the laws of the Commonwealth of Virginia, hereinafter referred to as Lessee.

In consideration of the mutual covenants herein set out, the parties agree as follows:

1. **DESCRIPTION OF PREMISES.**

Dwelling and lot described as Lot 11, Perrow's Addition to Remington, located at 7252 Fifth Street, Remington, Virginia, as shown on the attached plat, less and except the structure located at the northwest corner of the lot, described as "BLDG 20.3' x 40.1," which shall be available for the sole use of the County.

2. **TERM.**

The term of this lease shall extend for a period of 5 years from the date of execution of this agreement. The County may terminate this agreement prior to the expiration of the 5 year term upon 90 days written notice, provided however that unless the lease is terminated for cause as set forth in paragraph 10 below, the County shall first reimburse Fauquier Housing Corporation the cost of the initial improvements to the dwelling as required by the terms of this lease. The County's obligation to reimburse the cost of improvements shall be reduced on a prorated monthly basis for each month which Lessee has leased the facility.

3. **RENT.**

Lessee shall pay as annual rent for the premises the sum of \$1.00. Rent

shall be due on January 1 of each year.

4. BUILDING.

(a) **Condition of premises.** Lessee covenants and agrees that it has inspected the premises leased under this Agreement and agrees that it is leasing the building in an "as is" condition.

(b) **No Warranties.** Lessor makes no warranties of any kind or nature regarding the physical condition of the dwelling or as to its fitness for use for a particular purpose. Lessee acknowledges and agrees that it is leasing the dwelling in an "as is" condition without any warranties from the Lessor as to the building's physical condition or fitness for a particular purpose.

(c) **Liability.** Lessee expressly assumes full responsibility for all damages and injury to persons or property that may result by reason of its use of the dwelling under this lease agreement, and shall indemnify Lessor against any and all claims arising from such actions.

(d) **Permits and Approvals.** Lessee is responsible for obtaining all necessary permits and approvals, including but not limited to zoning permit, building permit, site plan approvals, well and septic approvals, certificate of occupancy and any other permit or approval required for use and occupancy of the building.

(f) **Improvements to Dwelling.** Lessee shall not make any interior or exterior improvement to the Building without the prior consent of the Lessor.

5. MAINTENANCE AND IMPROVEMENT OF DWELLING AND GROUNDS

Upon execution of this agreement, Lessee shall improve the premises to a sufficient degree to bring the dwelling to a safe and habitable standard. Prior to proceeding with any such improvements, Lessee shall provide the Fauquier County Administrator with its plans for the improvements and estimates or contracts which outline the cost which will be incurred for the improvements. The County shall have 30

days to review and accept or reject the proposed improvements. In the event that the County rejects the proposed improvements and the parties are unable to agree upon alternative terms, this lease shall be deemed terminated and no further obligation shall be imposed on either party. In the event that the County approves the proposed improvements, Lessee shall promptly complete the improvements at Lessee's expense. These improvements shall constitute the "initial improvements" referred to in paragraph 2 above. Thereafter, Lessee shall throughout the term of this lease agreement, at its own cost, and without any expense to Lessor, keep and maintain the dwelling and lot in good, sanitary, neat order and condition, provided, however, if the dwelling is damaged, destroyed or deteriorates to a point where the Lessor, in its sole discretion, determines it is not cost effective to repair or replace the building, the Lessor shall have the right to terminate this agreement and all parties shall be released from liability hereunder.

6. USE OF THE LEASED PREMISES.

Lessee agrees that the leased premises shall be used by Lessee exclusively to provide affordable housing under terms acceptable to Lessor to a resident or worker in Fauquier County with an income of 80% or less of median income under terms set forth in a written sublease between Lessee and the tenant. The sublease shall be in a form approved by Fauquier County and shall authorize the termination of the lease as set forth in paragraph 2, above and for such cause as is deemed appropriate to the Fauquier County Administrator and Fauquier County Attorney. All use of the dwelling shall conform to applicable County, State and Federal ordinances, regulations and laws. No other use of the dwelling shall be allowed unless prior written consent is obtained from the Fauquier County Board of Supervisors which may be granted or not granted at the absolute discretion of the Board. No hazardous waste or materials shall be kept in the dwelling except with the written consent of the Lessor.

7. SUBLEASE AND ASSIGNMENT.

Except as set forth in paragraph 6, above, Lessee may not sublease the

premises in whole or in part without the express written consent of the Lessor. Lessee shall not assign or transfer this lease agreement, or any interest in this lease agreement, without the prior, express, and written consent of the Lessor, and consent to an assignment shall not be deemed to be consent to any subsequent assignment. Any assignment without consent shall be void, and shall, at the option of the Lessor, terminate this lease agreement.

Neither this lease agreement nor the leasehold estate of Lessee, nor any interest of Lessee under this lease agreement in the demised building shall be subject to involuntary assignment, transfer, or sale, or to assignment, transfer, or sale by operation of law in any manner whatsoever. Any attempted involuntary assignment, transfer, or sale shall be void and of no effect and shall, at the option of the Lessor, terminate this lease agreement.

8. LESSOR'S RIGHT OF ENTRY.

Lessor or Lessor's agent may enter the premises to examine the same, giving 24 hour notice by telephone or mail to tenant occupant to do anything Lessor may be required to do hereunder or which Lessor may deem necessary for the good of the dwelling and premises. Lessor shall in addition have the right to cross the property at any time during daylight hours without notice and with notice to tenant occupant at all other times to access the 20.3' x 40.1 building referred to in paragraph 1, above.

9. COMPLIANCE WITH LAWS.

At all times during the terms of this lease agreement, Lessee shall obey and comply with all lawful requirements, orders, regulations, laws, rules, and ordinances of all legally constituted public authorities in any way affecting the demised premises, the facilities and improvements thereon, or the use of the same.

10. TERMINATION.

(a) **Due to breach.** In the event of the Lessee's breach of this

agreement or any underlying sublease, the Lessor, in addition to any other action or remedy permitted by law, has the right to enter and retain possession of the premises by any lawful means. If the Lessee does not remedy the breach within thirty days of receipt of written notice from Lessor, the Lessor may terminate this lease agreement.

(b) **No Cause.** The Lessor may, upon its sole discretion and without cause, terminate this lease agreement upon 90 days written notice to Lessee, subject to the reimbursement requirement set forth in paragraph 2, above.

11. TAXES.

Lessee shall pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposition, whether general or special, or ordinary or extraordinary, of every name, nature and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged or imposed, or which may become a lien or charge on or against the demised premises, or any part of the demised premises, the leasehold of Lessee in and under this lease agreement, the premises described in this lease agreement, any building or buildings, or any other improvements now or hereafter on the demised premises, or on the Lessee's estate created by this lease agreement that may be a subject of taxation, or on or against Lessor by reason of its ownership of the fee underlying this lease agreement, during the entire term of this lease agreement.

12. INSURANCE.

During the term of this agreement, Lessee shall obtain, pay all premiums for, and furnish certificates to, Lessor for insurance as specified by the Fauquier County Office of Risk Management.

All such insurance contracts shall name Lessor and Lessee as their interests appear and shall inure to the benefit of Lessee and Lessor and their officers, agents, elected officials, representatives or employees. Such insurance contracts shall be

with companies acceptable to Lessor and they shall require 60 days written notice to both parties hereto of any cancellation or modification.

13. DAMAGE TO PROPERTY ON PREMISES.

Lessee agrees that all property of every kind and description kept, stored or placed in the building shall be at the Lessee's sole risk and hazard and that Lessor shall not be responsible for any loss or damage to any of such property resulting from fire, explosion, water, steam, gas, electricity, or the elements, whether or not originating in the building caused by or from leaks or defects in or breakdown of plumbing, piping, wiring, heating, or any other facility, equipment, or fixtures or any other cause or act and whether or not resulting from the negligence of Lessor or other tenants of Lessor and anyone for whom Lessor may be responsible.

14. INDEMNIFICATION AND HOLD HARMLESS.

Lessee covenants at all times to indemnify and hold Lessor harmless for all loss, liability, cost, or damages that may occur or be claimed with respect to any person or property on, in or about the leased premises or to the leased premises themselves resulting from any act done or omission by or through Lessee, its agents, employees, invitees, or any person on the premises by reason of Lessee's use or occupancy or resulting from Lessee's non-use, or possession of such property and any and all loss, cost, liability, or expense resulting therefrom, and further covenants at all times to maintain such premises in a safe and careful manner.

15. WAIVER.

The rights and remedies of Lessor under this lease, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder or allowed by law. Failure of Lessor to enforce any provision of this agreement shall not be deemed a waiver of such right. A waiver of Lessor of any breach or default of Lessee hereunder shall not be deemed or construed to be a continuing waiver of such breach of default nor as a waiver of or permission,

expressed or implied, for any subsequent breach or default. It is agreed that the acceptance by Lessor of any installment of rent, subsequent to the date the same should have been paid hereunder, shall in no manner alter or affect the covenant and obligation of Lessee to pay subsequent installments of rent promptly upon the due date thereof. No receipt of money by Lessor after the termination in any way of this lease shall reinstate, continue, or extend the term above demised.

16. ENCUMBRANCES.

Nothing contained in this lease agreement shall be construed to authorize Lessee to do any act or make any contract so as to encumber in any manner the title of Lessor in and to the demised premises or to create any claim or lien the leased premises.

Any assignment, transfer, or conveyance by Lessee of any property rights arising out of this lease shall not encumber, alienate, diminish, cloud, or impair in any way the title ownership and interests of Lessor in and to such property. Lessee shall promptly pay when due all obligations or indebtedness incurred under or by virtue of this lease, including but not limited to taxes, labor, services, materials, supplies, furnishings, machinery or equipment which may be secured by any mechanic's or materialmen's lien or any other lien against the premises leased. This lease is subject to provisions of Fauquier County Ordinances and Virginia Code prohibiting alienation of title.

If, as a result of any construction, rebuilding, remodeling, or demolition by Lessee, or at its direction, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the demised premises, Lessee shall, at its own cost and expense, cause it to be discharged of record or bonded within 30 days after written notice from Lessor to Lessee of the filing.

Lessee shall indemnify Lessor against and from any and all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting from any such lien.

17. NOTICES.

All notice hereunder shall be sufficient if sent by registered or certified mail addressed as follows:

To Lessor: **Fauquier County**
County Administrator
10 Hotel Street
Warrenton, VA 20186

To Lessee: **Fauquier Housing Corporation**
P.O. Box 357
30 South 4th Street
Warrenton, VA 20188

18. ENTIRE AGREEMENT.

This agreement contains the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this lease agreement shall not be binding upon either party except to the extent incorporated in this agreement.

19. MODIFICATION.

Any modification of this lease agreement or additional obligation assumed by either party in connection with this lease agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

20. PARTIES BOUND.

The covenants and conditions contained in this lease agreement shall, subject to the provisions as to assignment, transfer, and subletting, apply to and bind the heirs, successors, executors, administrators, and assigns of all of the parties to the lease agreement.

21. CHOICE OF LAW AND FORUM.

This lease agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Virginia. All disputes arising under

this agreement shall be brought before a proper court in the Commonwealth of Virginia.

22. HEADINGS.

The headings of the sections of this lease agreement are for convenience only and are not a part of this lease agreement and do not in any way alter, amend, limit or amplify the terms and provisions of this lease agreement.

23. SEVERABILITY.

Any provision of this lease agreement which is prohibited by, or unlawful or unenforceable under Virginia law shall be ineffective only to the extent of such prohibition, without invalidating the remaining provisions of this lease.

For Lessor:

Fauquier County, a political
subdivision of the Commonwealth
of Virginia

Name and Title

Date

For Lessee:

Fauquier Housing Corporation
a Virginia Corporation

Name and Title

Date

/sj/FCAC.Lse/D/WORK